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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARTIN DE LOYE and JEAN-FRANCOIS DEPRUN

Appeal 2009-004458
Application 10/084,432
Technology Center 2600

Decided: January 15, 2010

Before JOSEPH F. RUGGIERO, MAHSHID D. SAADAT,
and BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-9, which are all of the claims pending in the present application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

The invention

Appellants' invention relates to a wireless corporate communication system that allocates available resources to corporate radio terminals under the range of a base station coupled with a private branch exchange (Spec. 2:5-9).

Claim 7 is illustrative of the claimed invention and reads as follows:

7. Base station adapted to be coupled to a private branch exchange comprising a module for sending messages to corporate radio terminals under the range of said base station indicating the amount of resources each of said corporate radio terminal is allocated, said amount of resources being determined by said private branch exchange.

The applied prior art and rejection

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Lu	US 5,999,813	Dec. 7, 1999
Chawla	US 6,771,661	Aug. 3, 2004 (filed Jul. 21, 1999)

Claims 1-9 stand rejected under 35 U.S.C. § 103(a) as being obvious over Lu in view of Chawla.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Briefs (App. Br. filed Jun. 18, 2008 and Reply Br. filed Oct. 21, 2008) and the Answer (mailed Aug. 21, 2008) for their respective details. With respect to independent claim 7, Appellants do not present any additional arguments and rely on the same reasoning discussed for independent claim 1 (App. Br. 17-18). Since no additional arguments are

provided for claim 7, no independent claims are effectively argued separately from the others. Therefore, we decide this Appeal on the basis of representative independent claim 7. *See* 37 C.F.R. § 41.37(c)(1)(vii) (“When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone.”). Further, only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Briefs have not been considered and are deemed to be waived. *See id.*

Arguments

Appellants contend (App. Br. 15) that Chawla distinguishes between data communication devices and terminals 210-215, and therefore does not teach or suggest configuring the terminals 210-215 with bandwidth allocation information. Appellants further argue (App. Br. 15-16) that the terminal in Chawla does not have knowledge of the amount of bandwidth available in order to perform communications over a network.

The Examiner finds (Ans. 20) that the communication devices in Chawla request bandwidth reservations for a current or future session via the reservation protocol RSVP, for which a response is received. The Examiner equates the indication of acceptance of the request in the response for a specific amount of resources to the claimed message indicating the amount of allocated resources (*id.*).

In response, Appellants assert (Reply Br. 5) that the RSVP protocol of Chawla allocates on a *per-flow* basis, whereas Appellants’ claims allocate

resources on a *per-terminal* basis. Appellants further contend (*id.*) that the RSVP system determines whether the requested resources may be allocated only after the RSVP sends a resource reservation request from a requester, such as a terminal, to the ultimate destination of the traffic. Appellants state that the claims require the private branch exchange, not the traffic destination, includes means for controlling the amount of resources allocated (*id.*).

Additionally, Appellants assert that Chawla does not disclose allocating resources according to the user profile of the corporate radio terminals, as recited in claim 3 (App. Br. 18). Appellants further argue that Chawla provides no teachings related to “automatically and dynamically” adjusting the amount of bandwidth, as recited in claims 6, 8, and 9 (*id.*).

ISSUES

Appellants’ arguments present the following issues:

1. Have Appellants shown that the Examiner erred in rejecting claim 7 by finding that Chawla teaches sending messages to corporate radio terminals indicating the amount of resources each of the corporate radio terminals is allocated?
2. Have Appellants shown that the Examiner erred in rejecting claim 3 by finding that Chawla teaches allocating resources according to the user profile of the corporate radio terminals?
3. Have Appellants shown that the Examiner erred in rejecting claims 6, 8, and 9 by finding that Chawla teaches “automatically and dynamically” adjusting the amount of bandwidth?

FINDINGS OF FACT

The following findings of fact (FF) are relevant to the issues involved in the appeal.

1. Chawla relates to a system and method for automatically and dynamically modifying allocation of resources upon the occurrence of specific events or times without having to break active sessions of data communications. In operation, a data communications device receives bandwidth allocation information indicating future bandwidth allocation modification information associated with a session of data communication. (Abstract; col. 10, l. 65-col. 11, l. 4.)

2. Chawla discloses that the bandwidth allocation information specifies amounts of bandwidth that are to be reserved, for example, for specific sessions of data that pass through the device(s) forming the network. (Col. 11, ll. 8-11.)

3. Chawla further discloses that the bandwidth allocation information, including the future bandwidth allocation modification information, exists in the form of extension(s) to a bandwidth reservation protocol, such as the Reservation Protocol (RSVP). (Col. 11, ll. 17-20.)

4. As shown in Figure 3, Chawla discloses a communications network 200 including data communications devices 201 (201-1 through 201-4), a network policy server 250, and voice and computer terminals 210-215, which are interconnected through data links 205. (Col. 11, ll. 55-62.)

5. Chawla further discloses the details of the data communications device 201 in Figure 6 that comprises a bandwidth reservation processor 420 including a bandwidth request handler 421. (Col. 14, l. 64-col. 15, l. 6.)

6. Chawla discloses that in order to reserve bandwidth for a session(s) of data communication, either for currently active sessions or for future reservations of future sessions, the data communications device 201 receives bandwidth allocation information 404 which can exist in many forms. For example, RSVP reservation request and path messages can be used to specify bandwidth reservations for sessions of data communication. In this instance, conventional RSVP messages may be used for this purpose. (Col. 16, ll. 30-40.)

7. Chawla teaches that if the data communications device 201 receives the bandwidth allocation information in the form of one or more RSVP path and reservation messages, the bandwidth request handler 421 is generally responsible for *accepting* or denying the bandwidth reservation requests 404. If *accepted*, the bandwidth request handler 421 enters information from the requests 404 into the network policy resource allocation table 400 (or updates it if it already exists). (Col. 16-ll. 58-66.)

8. Chawla states that the bandwidth request handler 421 can also use the bandwidth allocation information 404 to produce sender state data. (Col. 17, ll. 9-13.)

9. Chawla further discloses that the RSVP bandwidth reservation messages identify a session of data communication, an amount of bandwidth to reserve in the data communications device 201 for the session of data communication, and include bandwidth allocation modification information including future bandwidth allocation modification information. (Col. 17, ll. 49-55.)

10. As shown in Figure 5, Chawla discloses that the table 400 includes information in the form of a network policy resource allocation

table regarding the voice and computer terminals 210-215. (Col. 14, ll. 35-53.)

PRINCIPLES OF LAW

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. *See In re Kahn*, 441 F.3d 977, 987-88 (Fed. Cir. 2006); *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991); *In re Keller*, 642 F.2d 413, 425 (CCPA 1981). The initial burden of establishing reasons for unpatentability rests on the Examiner. *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir. 1992).

The Examiner can satisfy this burden by showing ““some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *Kahn*, 441 F.3d at 988). ““The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”” *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007) (quoting *KSR*, 550 U.S. at 416). “One of the ways in which a patent’s subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the patent’s claims.” *KSR*, 550 U.S. at 419-20.

ANALYSIS

1. *Claim 7*

Based on our review of Chawla, we find that accepting the request for a specific amount of resources sent via RSVP protocol in Chawla meets the

claimed step of sending messages to corporate radio terminals indicating the amount of resources each of the corporate radio terminals is allocated. As stated by the Examiner (Ans. 20), the acceptance or denial of the specific amount of bandwidth requested by the communication device 201 indicates to the requesting terminals whether the amount of requested resources is allocated to that terminal. Specifically, we find that the bandwidth allocation information, which is automatically and dynamically provided (FF 1), includes the specific amount of resources reserved or allocated to the specific sessions of data that passes through each device (FF 2). Chawla further describes the RSVP as a protocol for requesting bandwidth that also includes the bandwidth allocation information (FF 3). Therefore, accepting the request for a specific amount of bandwidth and providing the resources to the terminal in Chawla (FF 7) meets the claimed messages sent to indicate the amount of resources the terminal is allocated, as recited in claim 7.

We also disagree with Appellants (Reply Br. 5) that the RSVP system of Chawla allocates on a per-flow basis and is different from the claimed per-terminal basis. While Chawla mentions allocating bandwidth for specific sessions of data, these sessions are specified as sessions of data that pass through the devices forming the network (FF 2). These devices are identified as voice and computer terminals 210-215 that handle the data sessions (FF 4). Therefore, the requested bandwidth for a data session is in effect allocated to the device or the terminal that handles the data session.

Additionally, contrary to Appellants' argument (Reply Br. 5) that in Chawla the RSVP forwards a request from a terminal to the ultimate destination of the traffic where the amount of resource allocation is determined, we find that the resource allocation takes place in the data

communications device 201 by the bandwidth request handler 421 (FF 4-5). Specifically, Chawla discloses that the data communications device receives the bandwidth allocation information as a part of RSVP message (FF 6), which is provided to the bandwidth request handler 421 for accepting or denying the request (FF 7). We further find that the RSVP message identifies a session for that terminal and the amount of bandwidth to be allocated from the bandwidth allocation information in the message (FFs 7-8). Therefore, it is the data communication device 201, which the Examiner characterized as the claimed private branch exchange, that comprises the bandwidth handler 421 as the means for controlling the amount of resources allocated (FFs 5-9) and for sending the message indicating the amount of allocated resources by accepting the request (FF 7).

Therefore, as asserted by the Examiner (Ans. 6), combining the details of the wireless system of Lu with the data communications device of Chawla would provide an alternate, known way to automatically and dynamically modify allocation of resources and send a message to the terminals indicating the amount of allocated resources. Therefore, we find that Appellants have not shown that the Examiner erred in rejecting claim 7 by properly combining Lu and Chawla to meet the features recited in claim 7.

2. *Claim 3*

Appellants contend (App. Br. 18) that Chawla does not disclose that the table 400 contains the user profiles of the corporate radio terminals. However, we agree with the Examiner's position (Ans. 22-23) relying on the table 400 in Chawla for disclosing that resource allocation is based on the user's profiles of each terminal included in this table. Chawla discloses that the communications device 201 allocates resources and enters the

information from the resource requests in the network policy resource allocation table 400 (FF 7). The stored information is used for determining the profile of the terminal sending the request (FF 10). Thus, Appellants have not shown that the Examiner erred in rejecting claim 3 by finding that the combination of Lu and Chawla properly meets the claimed features of allocating resources according to the user profile of the corporate radio terminals.

3. *Claims 6, 8, and 9*

Appellants contend (App. Br. 18) that the Examiner has pointed to no portion of Chawla disclosing a system that “automatically and dynamically adjusts the amount of bandwidth for communication sessions according to situations such as times or events.” We disagree with Appellants and find that, as asserted by the Examiner (Ans. 12-15), Chawla does describe “a system and method for automatically and dynamically modifying allocation of resources upon the occurrence of specific events or times without having to break active sessions of data communications” (FFs 1-4). Thus, we find that Appellants have shown no error in the Examiner’s rejection of claims 6, 8, and 9 based on finding that the combination of Lu and Chawla suggest the disputed claim feature of “automatically and dynamically” adjusting the amount of bandwidth.

CONCLUSION

On the record before us and as discussed above, we find that Appellants have failed to show error in the Examiner’s position rejecting claims 1-9. In view of our analysis above, we sustain the 35 U.S.C. § 103(a) rejections of claims 1-9 over Lu in view of Chawla.

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ORDER

The decision of the Examiner rejecting claims 1-9 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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